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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/518,394	06/22/2012	Negar Moshiri	0320-135-3	7268

113648 7590 02/01/2017
Patent Portfolio Builders, PLLC
P.O. Box 7999
Fredericksburg, VA 22404-7999

EXAMINER

TRINH, TUNG THANH

ART UNIT	PAPER NUMBER
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2427

NOTIFICATION DATE	DELIVERY MODE
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02/01/2017

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte NEGAR MOSHIRI, FRANK A. HUNLETH, STEPHEN
SCHEIREY, and WILLIAM ROUADY

Appeal 2016-003323
Application 13/518,394¹
Technology Center 2400

Before HUNG H. BUI, KEVIN C. TROCK, and AMBER L. HAGY,
Administrative Patent Judges.

TROCK, *Administrative Patent Judge.*

DECISION ON APPEAL

Introduction

Appellants seek review under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 33–36, 38–43, 45–50, and 52–55.² We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

¹ Appellants indicate the real party in interest is Hillcrest Laboratories Inc. App. Br. 2.

² Claims 1–32, 37, 44, and 51 are cancelled. App. Br. 2.

Invention

The claimed invention relates to overlaying graphics onto a received video content and generating a composite output. Abstract.

Exemplary Claim

Exemplary claim 33 is reproduced below:

1. A system for overlaying user created graphics on top of video content, the system comprising:
 - a first device, and
 - a second device,
 - wherein the first device comprises:
 - a first device communications interface configured to receive the video content;
 - a first device processor configured to overlay first user created graphics on top of the video content and configured to create a first device composite output of: the video content and the overlaid first user created graphics;
 - the first device communications interface configured to transmit the first device composite output to a first television (TV); and,
 - the first device communications interface configured to transmit the first user created graphics to the second device, and
 - wherein the second device comprises:
 - a second device communications interface configured to receive the video content;
 - the second device communications interface configured to receive the first user created graphics from the first device;
 - a second device processor configured to overlay the first user created graphics on top of the video content and configured to create a second device composite output of: the video content and the overlaid first user created graphics; and

the second device communications interface configured to transmit the second device composite output to a second television (TV),

wherein an instant messaging (IM) technique is used for transmitting the first user created graphics to the second device,

further wherein a second user viewing the second device composite output to the second television (TV) can create graphics that are integrated with the second device composite output.

Rejections

(1) Claims 33–36, 38–43, 45–50, and 52–55 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hendricks et al. (US 2003/0163525 A1; Aug. 28, 2003).

(2) Claims 53–55 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hendricks and Harboe et al. (US 2010/0169917 A1; July 1, 2010).

ANALYSIS

We have reviewed the Examiner's rejections and the evidence of record in light of Appellants' arguments that the Examiner has erred. We disagree with Appellants' arguments and conclusions. We adopt as our own (1) the findings and reasons set forth by the Examiner in the Office Action from which this appeal is taken and (2) the findings and reasons set forth in the Examiner's Answer. We concur with the conclusions reached by the Examiner and further highlight specific findings and argument for emphasis as follows.

Section 102 - Independent Claims 33, 41, and 48

Appellants contend the Examiner erred in rejecting independent claims 33, 41, and 48 because Hendricks fails to disclose overlaying user created graphics on top of video content as recited in the claims. App. Br. 7–8; Reply Br. 2–3. Appellants also argue that Hendricks fails to disclose a television and that Hendricks’ client 915 cannot be both a device and a television. App. Br. 6–7; Reply Br. 3–4.

The Examiner finds, and we agree, that Hendricks discloses an improvement to instant messaging (IM) such as Moncreiff (US 6,061,716; May 9, 2000), which describes a system for combining IM with live video reception. Ans. 3 (citing Hendricks ¶ 4). The Examiner also finds Hendricks discloses:

“create” inputs including text 106, stroke 107, annotation 108 and “other” 109; “other” 109 is defined as other multimedia object such as audio and video; see figure 1 and paragraph [0031]. Hendricks discloses other media types such as images, video and audio files are supported and inserted into the recording area; see figures 3s-4s and paragraph [0038]. Hendricks discloses a predefined form function for a user to fill in objects; see figure 6 and paragraphs [0039]-[0044]. Hendricks discloses textual or handwritten stroke “Hello” 701 “overlays” the segmented object 700 (create input) which includes regions S1, S2, S3 and SN for object insertions; see figure 7 and paragraph [0045].

Ans. 2–3.

We agree with the Examiner, therefore, that Hendricks discloses overlaying user created graphics on top of video content as recited in independent claims 33, 41, and 48.

We note that the Specification does not provide any specific definition of the term “television.” The term “television” is well known as “a

telecommunication medium used for transmitting moving images in monochrome (black-and-white), or in color, and in two or three dimensions and sound.” TELEVISION, <https://en.wikipedia.org/wiki/Television> (last visited Jan. 25, 2017) (“Wikipedia”). In the context of the claims and the Specification, however, Appellants are using the term “television” in the sense of a “television set.” A standard television set is a device composed of multiple internal electronic circuits, including a tuner for receiving and decoding broadcast signals, as is well known by those skilled in the art.

We note that the Specification Figure 2 depicts exemplary media system 200 including a TV/MONITOR 212 and an AUDIO/VIDEO TUNER 218 connected to I/O BUS 210. The Specification explains that these devices/components “may be independent units or integrated together.” Spec. ¶ 32. The term “television” as used in claims 33, 41, and 48, when read in light of the Specification, therefore includes a monitor as a visual display device housed independently or integrated together with an audio/video tuner. Moreover, the “television” 320 depicted in Figure 3B of the Specification, uses a GUI screen (Graphical User Interface). Spec. ¶ 39. We note that Hendricks discusses a GUI that presents video material, such as live video reception, to users. Hendricks ¶ 4. Therefore, we agree with the Examiner’s finding that Hendricks’ client device is a “television” within the meaning of that term as used in the claims when read in light of the Specification. Ans. 3.

Contrary to Appellants’ other argument, nothing in the claims or the Specification requires the recited “device” to be physically separate from the recited “television.” Rather, as noted above, the Specification expressly states that the various components of the media system 200 “may be

independent units or integrated together.” Spec. ¶ 32. In describing an exemplary embodiment, the Specification explains that “overlay box 1200 receives the raw or native video and/or audio feed from the content source 1202 and overlays graphics on top of the raw or native video and/or audio feed to provide a composite output on the television 1204.” Spec. ¶ 63. The Specification goes on to explain that the “the overlay box 1200 can be integrated into, e.g., either the content source (e.g., STB) or the TV.” *Id.* Thus, the Specification contemplates that the recited device and television may be integrated together.

Accordingly, we are not persuaded by Appellants’ arguments that the Examiner erred in finding Hendricks discloses the subject matter recited by independent claims 33, 41, and 48. Therefore, we sustain the Examiner’s rejection of these claims under 35 U.S.C. § 102(b).

Section 102 - Dependent Claims 38, 39, 45, 46, and 52

Appellants contend the Examiner erred in rejecting dependent claims 38, 39, 45, 46, and 52 because Hendricks does not disclose a “cursor.” App. Br. 8; Reply Br. 4–5. Appellants also contend the Examiner erred because Hendricks does not disclose “wherein the cursor is moved to draw on screens” and “wherein moving the cursor results in altering the first user created graphics,” as recited in dependent claims 39, 46, and 52. App. Br. 8.

We note that the Specification does not provide a specific definition for the term “cursor.” The Examiner indicates that the definition of “cursor” is “a movable indicator on a computer screen identifying the point that will be affected by input from a user.” Ans. 4. A “cursor” is commonly known as “an indicator used to show the current position for user interaction on a computer monitor or other display device that will respond to input from a

text input or pointing device.” CURSOR (USER INTERFACE), [https://en.wikipedia.org/wiki/Cursor_\(user_interface\)](https://en.wikipedia.org/wiki/Cursor_(user_interface)) (last visited Jan. 25, 2017). The Examiner finds, and we agree, a cursor or pointer is associated with input devices such as a mouse, trackball, stylus, etc. Ans. 4. The Examiner finds, and we agree, Hendricks discloses a stylus as an input device and stylus locations reporting. Ans. 4. (citing Hendricks ¶¶ 6, 47). The Examiner also finds, and we agree, Hendricks discloses stroke-based annotations 53C “circling the house” or “encircled Hello” 703, which is a movement drawn on the screen by an input device. Ans. 4 (citing Hendricks ¶¶ 46, 51).

Accordingly, we are not persuaded by Appellants’ arguments that the Examiner erred in finding that Hendricks discloses a “cursor” and that Hendricks discloses “wherein the cursor is moved to draw on screens” and “wherein moving the cursor results in altering the first user created graphics.” Therefore, we sustain the Examiner’s rejection of dependent claims 38, 39, 45, 46, and 52 under 35 U.S.C. § 103(a).

Section 103 - Dependent Claims 53–55

Appellants contend the Examiner erred rejecting dependent claims 53–55 because the combination of Hendricks and Harboe does not teach or suggest overlaying of user created graphics on top of video content. Appellants argue that Harboe does not cure the noted deficiencies of Hendricks. App. Br. 9.

The Examiner relies on Hendricks, not Harboe, to teach this limitation. Ans. 2–3. Accordingly, for the reasons stated above with respect to independent claims 33, 41, and 48, we sustain the Examiner’s rejection of claims 53–55.

Remaining Claims 34–36, 40, 42, 43, 47, 49, and 50

Appellants have not presented separate arguments with respect to claims 34–36, 40, 42, 43, 47, 49, and 50. *See* App. Br. 4–10. We, therefore, are not persuaded that the Examiner erred in rejecting these claims. *See* 37 C.F.R. § 41.37(c)(1)(iv); *In re Lovin*, 652 F.3d 1349, 1356 (Fed. Cir. 2011) (“We conclude that the Board has reasonably interpreted Rule 41.37 to require applicants to articulate more substantive arguments if they wish for individual claims to be treated separately.”). Accordingly, we sustain the Examiner’s rejection of these claims.

DECISION

We AFFIRM the Examiner’s rejections of claims 33–36, 38–43, 45–50, and 52–55.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED